VOW
VOICE OF WEBCASTERS

Webcasters Capitol Hill Day Schedule
May 9, 2002

Thursday, May 9

9:00 – 9:15 am — **Introductions and Breakfast** (sponsored by DiMA)
- Meet in the Rayburn House Office in Room B-352

9:15 – 10:30 am — **Review**
- Congressional Meeting Protocol
- Message Points
- Context
- Handouts/Materials
- Goals
- Schedule

10:45 – 11:15 am — **Press Conference** (Meeting Room)

11:45 – 1:00 pm — **Lunch** (cosponsored by DiMA and Lightningcast) **and Speakers** (Members of Congress)

11:45 – 12:00	Rep. Boucher (R-VA) (Luncheon Speaker)
12:00 – 12:15	Rep. Cannon (R-UT) (Luncheon Speaker)
12:15 – 12:30	Melissa McDonald – Oversight Counsel, House Judiciary Subcommittee on the Courts, Intellectual Property and the Internet
12:40 – 12:50	Rep. Inslee (D-WA) (Luncheon Speaker)

1:00 – 6:00 pm — **Meetings with Senators/Staff, Representatives/Staff**

1:00 pm
- Rep. Berman (D-CA) – Alec French, B-336 Rayburn (David Landis)
- Sen. Feingold (D-WI) – Tim Graves, 506 Hart (Kurt Hanson)
- Sen. Kennedy (D-MA) – David Sutphen, 520 Dirksen (Michael Papish)

1:30 pm
- Rep. Etheridge (R-NC), 1533 Longworth (Deborah Proctor)

2:00 pm
- Sen. Kyl (R-AZ) – Joe Matal (Mary McCann)
- Sen. Cantwell (D-WA) – Dan Ebert and Stacey Baird
- Rep. Blagojevich (D-IL) – Dave Stricklin, 331 Cannon (Kurt Hanson)
- Sen. Allen (R-VA) – Frank Cavaliere, 204 Russell

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2:30 pm
- Rep. Meehan (D-MA) – Ron Carlton, 2447 Rayburn (Michael Papish)
- Sen. Lieberman (D-CT) – (Kevin Shively)

3:00 pm
- Sen. Leahy (D-VT) – Beryl Howell and Susan Davies
- Sen. Feinstein (D-CA) – David Hantman, 331 Hart (David Landis)
- Rep. Conyers (D-MI) – Sampak Garg, 2148 Rayburn
- Sen. Kohl (D-WI) – Jeff Miller, 308 Hart (Kurt Hanson)

3:30 pm
- Sen. Helms (R-NC) – David Crotts, 403 Dirksen (Deborah Proctor)
- Sen. Boxer (D-CA) – Danny Sepulveda, 112 Hart (David Landis)

3:45 pm
- Sen. Hatch (R-UT) – Shawn Bentley, 152 Dirksen

4:00 pm
- Rep. Baldwin (D-WI) – David Stacy, 1022 Longworth (Kurt Hanson)
- Sen. Carnahan (D-MO) – Steve Neuman (Jim Atkinson)

5:00 pm
- Sen. DeWine (R-OH) – Kelly Mauceri, 161 Dirksen
- Rep. Goodlatte (R-VA) – Shelley Hanger, 2240 Rayburn

5:15 pm
- Sen. Durbin (D-IL) – David Leiber and Mark Keam, 332 Dirksen (Kurt Hanson and Paul Maloney)

6:30 **Reception at Tortilla Coast** (cosponsored by Lightningcast and Arbitron)
400 First Street, SE, Washington, DC 20003

Friday, May 10

11:00 am **Rep. Inslee (D-WA) – Brian Bonlender** (Mike Roe)

1:00 pm **Rep. Boucher (R-VA) – Johanna Mikes** (Mike Roe)

PANEL I REPORTING TO DETERMINE ROYALTY ALLOCATION	PANEL II REPORTING TO MONITOR COMPLIANCE WITH TERMS OF LICENSE	PANEL III SMALL BUSINESSES
Future of Music Coalition (*Jenny Toomey)*	Music Choice *(Amy Bushyeager)*	WCPE *(Deborah Proctor)*
Recording Industry Association of America *(Steve Marks or other)*	DMX Music, Inc. *(Barry Knittel)*	Arbitron *(Joan FitzGerald)*
SoundExchange *(John Simson or other*)	Muzak *(Chuck Walker)*	Spacial AudioSolutions *(Bryan Payne)*
Digital Media Association *(Jonathan Potter or other)*	Digital Media Association *(Jonathan Potter or other)*	RAS Records *(Gary Himelfarb)*
National Association of Broadcasters et al. *(Bruce Joseph)*	Yahoo! *(Alex Maghen)*	Collegiate Broadcasters, Inc. *(Will Robedee)*
Intercollegiate Broadcasting System *(Frederick Kass* ***or*** *William Malone)*	Ultimate 80s *(Dave Landis)*	Future of Music Coalition *(Brian Zisk)*
ASCAP *(Sam Mosenkis* ***or*** *Chris Amenita)*	iM Radio *(MaryMcCann)*	SoundExchange *(John Simson or other)*
Websound *(Glen Fisher)*	XM Satellite Radio & Sirius Satellite Radio *(Bruce Joseph)*	Massanutten Broadcasting System, Inc. *(David Eshleman)*
American Federation of Musicians *(Patricia Polach)*	Recording Industry Association of America *(Steve Marks or other)*	University of Louisiana at Monroe/KXUL *(Joel Willer)*
Beethoven.com *(Kevin Shively)*	SoundExchange *(John Simson or other*)	RAIN Publications *(Kurt Hanson* ***or*** *Paul Maloney)*
Yahoo! *(Alex Maghen)*	American Federation of Musicians *(Patricia Polach)*	International Webcasting Association *(Peggy Miles)*
Radio Computing Services, Inc. *(Elliot Mazer)*	Clear Channel (*Brian Parsons* ***or*** *Karyn Ablin)*	American Federation of Musicians *(Patricia Polach)*
3WK LLC *(Wanda Atkinson)*	Twangcast.com *(Michael Hays)*	Digitally Imported Radio *(Gary Dobek)*
MediaUnbound, Inc. *(ichael Papish)*	International Webcasters Association *(Brad Pumphrey)*	Radioio.com *(Mike Roe)*
DMX Music, Inc. *(Barry Knittel)*	IBC *(Joseph Buczynski*)	Rep. Dennis Kucinich *(Martin Gelfand)*

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https://archive.org/details/webcasters-day-on-hill

Future of Music Coalition

www.futureofmusic.org

The Future of Music Coalition's Statement
prepared for the Copyright Office Roundtable
May 10, 2002

The Future of Music Coalition was formed over two years ago to serve as a voice for artists in the emerging, and often contentious, debates over how technology will reshape the music industry.

Our main organizing principle is that the established music industry structures often do not serve musicians or citizens, but rather corporate interests. Another organizing principle is that these debates around technology rarely, if ever, present black and white solutions.

The issues that bring us together today fit squarely in the gray category. But maybe it's appropriate to say it's a lighter shade of gray than many recognize. Due to the diligent work of the Copyright Office, especially in convening this panel today, the remarkable energy of the webcasting community, and the willingness of the record industry to pursue reasonable solutions, the Future of Music Coalition is quite optimistic that realistic negotiated settlements to these concerns are both possible and likely.

We are preparing somewhat lengthy testimony that will be submitted early next week to the Senate Judiciary Committee that goes into our views regarding webcasting in more detail. That being said, our core beliefs in these debates are as follows:

1. Establishment of Alternative Licensing Structures

It is critical to recognize that there is no single definition of a "webcaster". Rather, we believe it is possible to place most, if not all, webcasters into one of four classes:

a. Corporate webcasters
b. Small entrepreneur webcasters
c. non-commercial and community broadcasters
d. hobbyist webcasters

Each of these classes webcast for different reasons and according to different models. As a result, these distinctions need to be taken into account both in terms of rates and reporting requirements, just as they are on the terrestrial bandwidth.

Do large corporations need to pay at a rate that recognizes the value of artistic labor? Absolutely. Does it help artists or music fans if new models of webcasting are unable to develop because webcasters are forced to work under one-size-fits-all rates and reporting requirements? Of course not. Those are the black and white choices, and we believe musicians should not be forced to choose between essentials. Exposure and compensation are the bread and water of our constituency and no one can survive on only bread *or* water. In other words, working musicians should not be asked to choose between, on one hand, the broadest possible exposure through webcasting and, on the other hand, a fair royalty rate.

The Future of Music Coalition believes there is enough common ground to create commercial, non-commercial, incubator and hobbyist licenses, each with distinct rates and reporting requirements. Terrestrial bandwidth, with its tradition of graded licensing rates, stands as a good model from which to start this work. We hope that, with the installation of a graded licensing and reporting system, we would create a workable solution that both allows for webcasting on all levels to thrive, while also building new revenue streams for musicians.

2. Reasonable Reporting Requirements and the Automation of Reporting

It is vitally important for all classes of webcasters to document, to the extent that they are reasonably able, the music they choose to play. At the same time, it is important that the administrative burden placed on webcasters not be out of synch with the realities of their staffing and revenue situations. In the short term, smaller and noncommercial webcasters should have to report data that is sufficient to uniquely identify the songs played so that artists and songwriters can be fairly compensated. In the long term, the FMC believes the best remedy is a publicly held authentication database that would reduce reporting requirements to several clicks of a mouse.

3. Elimination of Ephemeral Copy Logs

Simply put, the Future of Music Coalition calls the elimination the requirements to report ephemeral logs. We fail to grasp the logic of forcing webcasters to engage in a never-ending, and possibly technically unfeasible, process of destroying then rebuilding something that is simply part of the process of webcasting music. As always, we are eager to be educated if we are missing the boat, but this requirement seems without merit.

4. Removal of the Requirement to Report under the Penalty of Perjury

Given the concerns stated above about the potential impracticality of certain reporting requirements, and given the reality that any new process like this will take time to become standardized, it seems unduly harsh to require webcasters to sign their log sheets under the penalty of perjury. This is an overly punitive approach to a fairly basic challenge – a challenge that has been addressed by decades of policy precedents in other federal agencies. When a citizen submits information to the federal government in an official proceeding, it is done with the understanding that the information that is being supplied is truthful to the best of the citizen's knowledge. The FMC urges the Copyright Office to eliminate requirement to file under the penalty of perjury.

The FMC recognizes that today's Roundtable is the part of an ongoing process. In order for licensing rates and reporting requirements to be scaled to meet the realities of different classes of webcasters, there will need to be further discussions between various parties to first distinguish the four classes of webcasters and then come up with rates and requirements that are in line with their unique characteristics. The FMC is more than willing to take part in these discussions if it ensures that webcasting can continue to offer diverse and creative programming to the public, and serve as an new revenue stream for musicians. We're particularly interested in any steps that can be taken to encourage cooperation between the opposing parties. Just three weeks ago the FMC drafted a CARP fact sheet that explained the CARP process and the issues regarding rates and reporting requirements, and we pledge to do anything to continue to disseminate information to the public

Again, we applaud the Copyright Office for holding this important forum and look forward to contributing as we can to this ongoing discussion.

Respectfully Submitted,

Jenny Toomey, Executive Director
Michael Bracy, Director, Government Relations
Walter McDonough, General Counsel
Kristin Thomson, Research Director
Brian Zisk, Technologies Director

Notice and Recordkeeping for Use of Sound Recordings Under Statutory License Reply Comments

Background

On February 7, 2002, the U.S. Copyright Office issued a notice of a proposed rulemaking on the requirements for giving sound recording copyright owners reasonable notice of the use of their works in connection with the section 114 statutory license for certain digital transmissions of public performances of sound recordings, and on the requirements for how records of such use will be kept and made available to copyright owners.

Interested parties submitted comments on the rulemaking by April 5. Reply comments were due April 26. For more details, please see *Federal Register* notice 67 FR 5761.

Note: In order to view these files, your computer must be equipped with software capable of reading PDF version 5.0 files. One such program, Adobe Acrobat Reader 5, is available free from Adobe Systems Incorporated.

Reply Comments

Document	Commenter
1	Royal Programs, Inc.
2	Criswell Center for Biblical Studies and First Baptist Church of Dallas
3	Collegiate Broadcasters, Inc.
4	SBR Creative Media, Inc.
5	13 College and University Radio Broadcasters
6	Princeton Broadcasting Service, Inc.
7	Intercollegiate Broadcasting System
8	Harvard Radio Broadcasting Co., Inc.
9	Dennis J. Kucinich, U.S. House of Representatives
10	DMX Music, Inc.
11	American Federation of Musicians of the United States and Canada & The American Federation of Television and Radio Artists
12	Music Choice
13	Future of Music Coalition
14	Digital Media Association

15	Yahoo! Inc.
16	Northeastern University
17	XM Satellite Radio, Inc. & Sirius Satellite Radio, Inc.
18	A United Group of Webcasters (3WK, Beethoven.com, Chronix Radio, CyberRadio2000.com, radioio.com, SomaFM, Ultimate-80s & Wolf FM)
19	Recording Industry Association of America, Inc. Vol. 1 Vol. 2 Vol. 3 Vol. 4
20	Bonneville International Corporation, Clear Channel Communications, Inc., Cox Radio, Inc., National Association of Broadcasters, National Religious Broadcasters Music License Committee, Salem Communications, & Susquehanna Radio Corp.
21	Royalty Logic, Inc.
22	MUZAK, LLC
23	Websound, Inc.

The Library of Congress

03-May-2002

Notice and Recordkeeping for Use of Sound Recordings Under Statutory License Initial Comments

Background

On February 7, 2002, the U.S. Copyright Office issued a notice of a proposed rulemaking on the requirements for giving sound recording copyright owners reasonable notice of the use of their works in connection with the section 114 statutory license for certain digital transmissions of public performances of sound recordings, and on the requirements for how records of such use will be kept and made available to copyright owners.

Interested parties submitted comments on the rulemaking by April 5. Reply comments are due April 26. For more details, please see *Federal Register* notice 66 FR 64783.

Please note that this rulemaking proceeding is not about the rates and terms for webcasters that were recommended by the Copyright Arbitration Royalty Panel ("CARP") in its February 20, 2002 report. There is no provision for public comments on the CARP report. The following comments address the proposed rulemaking on the requirements for giving sound recording copyright owners reasonable notice of the use of their works in connection with the section 114 statutory license.

Initial Comments

Document	Commenter
1	Philip Gladstone Symantec engineer
2	Herbert W. Robinson musician - indy form letter
3	Arthur R. Marriott listener
4	Michael P. Jackson listener
5	Joshua S. Watties listener / former ASCAP legal
6	Websound, Inc.,: Glenn S. Fisher; CTO, Billy Straus, CEO; Corin Nelson, Director of I-Media webcaster
7	Maynard R. Johnson listener
8	Carl Bruce listener
9	Robert Pullman, President: Inetprogramming Incorporated webcaster
10	Joel B. Easton, COO: CPI Interactive, Virtual Radio Addendum musician
11	Brian Talley, V.P. Operations: WSMI-FM Radio Station Talley Broadcasting Corporation mostly discusses CARP
	Brian Talley, V.P. Operations: WSMI-AM Radio Station Talley Broadcasting

	12	Corporation
	13	David Halford LISTENER, MOSTLY CARP
	14	Benjamin Epstein, Ph.D., Chief Operating Officer: Andante Corp. EQUIPMENT VENDOR
✓ 1	15	Cary S. Tepper, Esq.: Mayflower Hill Broadcasting Corporation WMHB COLBY COLLEGE WATERVILLE, ME
✓ 2	16	Cary S. Tepper, Esq.: Collegiate Broadcasters, Inc.
	17	Carol Pierson, President and CEO: National Federation of Community Broadcasters (NFCB)
	18	David Landis: Ultimate-80s/Discombobulated, LLC Webcaster
Asks for special treatment for non-commers	19	Michael Bracy, Director, Government Relations: Future of Music Coalition
	20	Jonathan Potter, Executive Director: Digital Media Association; Seth D. Greenstein: McDermott, Will & Emery
3	21	Andrew Marlow, General Manager: KUOM College Broadcasters
	22	Fernando R. Laguarda, Esq; Susan E. McDonald, Esq.: Music Choice
	23	Kevin F. Shively, Director of Interactive Media: beethoven.com
4	24	Joseph Kremer, Station Manager; Tome Lopez, Faculty Advisor: WOBC Oberlin
	25	Peter Gutmann, Attorney: Royal Programs, Inc. Webcaster
	26	Fred von Lohmann, Senior Intellectual Property Attorney: Electronic Frontier Foundation (Cindy Cohn, Legal Director); Fresno Free College Foundation KFCF 88.1 FM (Rych Withers-President & Tim Pozar - Member); Electronic Privacy Information Center (Chris Hoofnagle, Legislative Counsel); KPFA Radio (Philip J. Osegueda, Assistant General Manager)
	27	Donald E. Martin, P.C.: Adventist Radio Broadcasters Association
	28	Patricia Polach, Bredhoff & Kaiser, P.L.L.C.: American Federation of Musicians of the United States and Canada; Ann E. Chaitovitz, National Director of Sound Recordings American Federation of Television and Radio Artists: American Federation of Television and Radio Artists
	29	Lon C. Levin, Senior Vice President: XM Satellite Radio Inc.; Douglas A. Kaplan, Senior Vice President and Deputy General Counsel: Sirius Satellite Radio Inc.
	30	Cary H. Sherman; Steven M. Marks; Gary R. Greenstein; Linda R. Bocchi; Susan C. Munsat: Recording Industry Association of America, Inc. (Counsel: Robert Alan Garrett and Steve Englund, Arnold & Porter)
	31	R. Bruce Rich; Mark Jacoby; Fiona Schaeffer; Weil, Gotshal & Manges, LLP: Bonneville International Corporation; National Association of Broadcasters; and Susquehanna Radio Corp. Bruce G. Joseph; Karyn K. Ablin; Dineen P. Wasylik, Wiley Rein & Fielding LLP: Clear Channel Communications, Inc.; National Association of Broadcasters; National Religious Broadcasters Music; License Committee; and Salem Communications Corp.
✓ 5	32	William Malone, Miller and Van Eaton, P.L.L.C.: Intercollegiate Broadcasting System, Inc

33	Mona Lewandoski, President: Harvard Radio Broadcasting Co., Inc.	w HRB
34	Dennis J. Kucinich, Member of Congress: WBWC/88.3-FM Berea (Baldwin Wallace College), WRUW/91.1-FM Cleveland (Case Western Reserve University), WCSB/89-3-FM (Cleveland State University), and WUJC/88.7-FM University Heights (John Carroll University)	
35	Patsy T. Mink, Member of Congress	
36	Brian Comerford, Cofounder, Program Director: Radio Valve	Webcaster
37	Carl Moore: Jack, Lyon & Jones, P.A., Attorneys at Law	Webcaster?
38	Ronald H. Gertz, Esq., President and CEO: Royalty Logic, Inc.	Royalty corp
39	Jim Atkinson, Co-Owner; Wanda Atkinson, Co-Owner: 3WK	Webcaster
*	The Office also received 25 comments stating that the commentator was opposed to royalty rates proposed in another proceeding. These comments all follow the same model. A representative example of these letters is presented here.	Musician Comm center

10-Apr-2002